

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6912 of 2019

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Munindar Tripathi, Son of Late Rajendra Tripathi @ Rajendra Tiwari, R/o
Village- Lakar Nanhakar, P.S. Lauria, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
3. The District Magistrate, East Champaran at Motihari.
4. The Superintendent of Police, East Champaran at Motihari.
5. The Sub Inspector Excise, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shekhar Singh, Adv.
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 11-07-2019

Heard Mr. Shekhar Singh, learned counsel appearing for
the petitioner and Mr. Vikash Kumar, learned Standing Counsel
No.11 for the State.

The petitioner is the proprietor of a transport carrier and
owner of the Tanker which was being used for transportation of
20,000 litres of denatured anhydrous ethanol under valid permit
from Harinagar Sugar Mill Limited, Distillery Division in the
district of West Champran to the Indian Oil Corporation Limited,



Sipara in the district of Patna. It is because the driver of the said tanker was found involved in acts which were allegedly contrary to the provisions of the Bihar Prohibition and Excise Act, 2016 that the tanker was seized and an excise case was registered against the accused persons. In so far as the transportation of ethanol is concerned, there is no dispute as regarding its lawful transportation from the Distillery Division of M/s Harinagar Sugar Mill to the Indian Oil Corporation Limited, Sipara in the district of Patna.

According to Mr. Vikash Kumar, learned Standing Counsel No.11, the default was on the part of the driver of the tanker in so far as the issue of ethanol is concerned.

We have been informed that a resolution has been taken by the State Government in its Excise department to permit the distilleries manufacturing molasses as well as grain based ethanol to the extent of 100% of their manufacturing capacity and which has been circulated vide Memo No.2373 dated 03.07.2019 and thus the consignment is well supported.

It is bearing note of the nature of consignment as well as the documents accompanying it that this Court vide order dated 10.05.2019 directed for interim release of the tanker together with the denatured anhydrous ethanol on furnishing indemnity bond for satisfying any liability that may be arising on adjudication of the



matter. We are informed that the tanker together with the goods has since been released.

In view of the facts noted above and bearing note of the opposition coming from Mr. Vikash Kumar, learned Standing Counsel No.11 as regarding the culpability and since an excise case is already registered and pending for adjudication, we would not express our opinion on the merits of the charge but would leave it open for the purpose to contest before the appropriate forum.

With the observation above and while confirming the interim order dated 10.05.2019, we allow this writ petition.

(Jyoti Saran, J)

(Partha Sarthy, J)

skpathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	25.07.2019
Transmission Date	NA

